

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the General Investigation to)
Examine Issues Surrounding Rate Design) Docket No. 16-GIME-403-GIE
for Distributed Generation Customers.)

PETITION TO INTERVENE

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and petitions the Corporation Commission of the State of the Kansas ("Commission") for intervention in the above-captioned case pursuant to K.S.A. 66-1223 and K.S.A. 77-521(a). In support of its petition, CURB states and alleges as follows:

1. On March 11, 2016, the Staff of the State Corporation Commission ("Staff") filed a Motion to Open Docket to request a general investigation to examine various issues surrounding rate design for distributed generation customers.
2. CURB is composed of five volunteer board members.¹
3. CURB has specific statutory authority to "represent residential and small commercial ratepayers before the state corporation commission"² and to "function as an *official intervenor in cases* filed with the state corporation commission."³ CURB's authority and role as the official intervenor in cases filed with the Commission has been recognized by the Kansas Supreme Court.⁴

¹ K.S.A. 66-1222(a).

² K.S.A. 66-1223(a).

³ K.S.A. 66-1223(b).

⁴ K.S.A. 66-1223(b). *See, Citizens' Utility Ratepayer Board v. Kansas Corporation Comm'n*, 24 Kan. App.2d 63, 68, rev. den. 262 Kan. 959 (1997) ("*CURB v. KCC*"). *See also, Farmland Industries, Inc. v. Kansas Corp. Comm'n*, 29 Kan.App.2d 1031, 1047-48, 37 P.3d 640 (2001) ("The bulk of current customers otherwise entitled to receive refunds are *statutorily represented* by CURB. *See* K.S.A. 66-1223(a)")

CURB also has specific statutory authority to seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers.⁵

4. CURB's express statutory authority referenced above reflects the intent of the Legislature that CURB should participate in cases filed with the Commission. This fulfills the requirement under K.S.A. 77-521(a)(2) because CURB "qualifies as an intervener under any provision of law."

5. The residential and small commercial ratepayers whose interests CURB represents will be bound by any Commission order or activity in this proceeding. The rates paid and the services received by residential and small commercial ratepayers arising out of or in connection with Staff's request for a general investigation to examine various issues surrounding rate design for distributed generation customers may be substantially affected by any Commission order or activity in this proceeding.

6. The representation of CURB's interests in this proceeding by existing parties is inadequate. No other party to this proceeding is authorized to (a) represent residential and small commercial ratepayers before the Commission, (b) function as the statutory official intervenor in cases filed with the Commission, or (c) seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers. While Commission Staff may have authority to investigate, evaluate, testify and offer exhibits on behalf of the *general public* pursuant to a definition contained in a Commission regulation,⁶ Staff does not represent residential and small commercial ratepayers and is expressly denied the right to appeal Commission orders.⁷

⁵ K.S.A. 66-1223.

⁶ Staff's authority to represent the general public is not specifically authorized by statute, but merely referenced in the definition section of Commission regulations. K.A.R. 82-1-204(q) ("Technical staff may conduct investigations and

7. Accordingly, CURB has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party. Pursuant to K.S.A. 77-521(a)(2), CURB qualifies as an intervenor (a) under provision of law and (b) because the rights, duties, privileges, immunities, or other legal interests of residential and small commercial ratepayers may be substantially affected by this proceeding.⁸

8. CURB's requested intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.⁹

9. CURB therefore requests that the Commission grant CURB's Petition to Intervene and participate fully in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings.

10. In addition to undersigned counsel, please include the following CURB representatives with all electronic notices, pleadings, and correspondence regarding this Application as follows:

Shonda Smith
Office Manager
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
Email: sd.smith@curb.kansas.gov

Della Smith
Administrative Specialist
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
Email: d.smith@curb.kansas.gov

WHEREFORE, CURB respectfully requests the Commission grant its Petition for Intervention in this Docket.

⁸ K.S.A. 77-521(a)(2).

⁹ K.S.A. 77-521(a)(3).

Respectfully submitted,

A handwritten signature in cursive script that reads "David W. Nickel".

David W. Nickel, #11170
Consumer Counsel
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
(785) 271-3200
(785) 271-3116 Fax

CERTIFICATE OF SERVICE

16-GIME-403-GIE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 7th day of April, 2016, to the following parties:

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
jflaherty@andersonbyrd.com

MARTIN J. BREGMAN
BREGMAN LAW OFFICE, L.L.C.
311 PARKER CIRCLE
LAWRENCE, KS 66049
mjb@mjbregmanlaw.com

ANDREW J ZELLERS, GEN COUNSEL/VP
REGULATORY AFFAIRS
BRIGHTERGY, LLC
1617 MAIN ST 3RD FLR
KANSAS CITY, MO 64108
andy.zellers@brightergy.com

DOROTHY BARNETT
CLIMATE & ENERGY PROJECT
PO BOX 1858
HUTCHINSON, KS 67504-1858
barnett@climateandenergy.org

ARON CROMWELL
CROMWELL ENVIRONMENTAL, INC.
615 VERMONT ST
LAWRENCE, KS 66044
ACROMWELL@CROMWELLENV.COM

BRYAN OWENS, ASSISTANT DIRECTOR OF
PLANNING & REGULATORY
EMPIRE DISTRICT INDUSTRIES, INC.
602 JOPLIN
PO BOX 127
JOPLIN, MO 64802-0127
bowens@empiredistrict.com

C. EDWARD PETERSON, ATTORNEY
FINNEGAN CONRAD & PETERSON LC
1209 PENNTOWER OFFICE CENTER
3100 BROADWAY
KANSAS CITY, MO 64111
ed.peterson2010@gmail.com

ROBERT J. HACK, LEAD REGULATORY
COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
ROB.HACK@KCPL.COM

DARRIN R. IVES, SENIOR DIRECTOR,
REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
darrin.ives@kcpl.com

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
roger.steiner@kcpl.com

MARY TURNER, COMPLAINTS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
MARY.TURNER@KCPL.COM

MICHAEL DUENES, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
m.duenes@kcc.ks.gov

SAMUEL FEATHER, OFFICE OF GENERAL
COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
s.feather@kcc.ks.gov

AMBER SMITH, CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
a.smith@kcc.ks.gov

KELLY J. KAUFFMAN
KAUFFMAN & EYE
4840 Bob Billings Pkwy, Ste. 1000
Lawrence, KS 66049-3862
kelly@kauffmaneye.com

JACOB J SCHLESINGER, ATTORNEY
KEYS FOX & WIEDMAN LLP
1400 16TH ST
16 MARKET SQUARE, STE 400
DENVER, CO 80202
JSCHLESINGER@KFWLAW.COM

ANNE E. CALLENBACH, ATTORNEY
POL SINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY, MO 64112
acallenbach@polsinelli.com

FRANK A. CARO, ATTORNEY
POL SINELLI PC
900 W 48TH PLACE STE 900
KANSAS CITY, MO 64112
fcaro@polsinelli.com

CERTIFICATE OF SERVICE

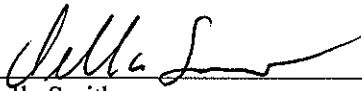
16-GIME-403-GIE

JAMES BRUNGARDT, REGULATORY AFFAIRS
ADMINISTRATOR
SUNFLOWER ELECTRIC POWER
CORPORATION
301 W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
JBRUNGARDT@SUNFLOWER.NET

MARK D. CALCARA, GENERAL COUNSEL
SUNFLOWER ELECTRIC POWER
CORPORATION
301 W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
MCALCARA@SUNFLOWER.NET

TAYLOR P. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
TCALCARA@WCRF.COM

CATHRYN J. DINGES, SENIOR CORPORATE
COUNSEL
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
cathy.dinges@westarenergy.com



Della Smith
Administrative Specialist